

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

IN RE:)
)
ATHEAL PIERCE)
)
Debtor.)
)
ATHEAL PIERCE,) CIVIL ACTION NO.
) 2:06cv414-MHT
Appellant,) (WO)
)
v.)
)
AMERICAN GENERAL FINANCE)
COMPANY, et al.,)
)
Appellees.)

ORDER

This cause is now before the court on appellant Athael Pierce's motion for leave to proceed without prepayment of fees (Doc. No. 1, Attachment 11), which the court is treating as a motion to proceed on appeal in forma pauperis.

Pursuant to 28 U.S.C. § 158(c)(2), all appeals from bankruptcy proceedings to the district court "shall be

taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts." 28 U.S.C. § 1915(a)(1) provides, in relevant part, that "any court of the United States may authorize the commencement ... of any ... appeal ... without prepayment of fees ... by a person who submits an affidavit that includes a statement of all assets such [person] possesses that the person is unable to pay such fees or give security therefor." Fed. R. App. P. 24(a) provides more particularity as to what is required to proceed in forma pauperis: the party must file a motion in the district court and must attach an affidavit which shows in detail (using Form 4 of the Rules) the party's inability to pay costs and fees, that claims an entitlement to redress, and that states the issues that the party intends to raise on appeal.

Because Pierce has not submitted the affidavit required by § 1915(a)(1) and Fed. R. Civ. P. 24, this court cannot grant appellant Pierce's motion to proceed

in forma pauperis; indeed, without such an affidavit, this court cannot determine if Pierce is actually unable to pay the filing fee.

Accordingly, it is ORDERED that appellant Atheal Pierce's motion to proceed on appeal in forma pauperis (Doc. No. 1, Attachment 11) is denied without prejudice.

It is further ORDERED that appellant Pierce has until June 12, 2006, to pay the appropriate filing fee or file a motion to proceed in forma pauperis, accompanied by an affidavit that complies with 28 U.S.C. § 1915(a)(1) and Fed. R. Civ. P. 24. If he does not comply with this order, his appeal will be dismissed, see Fed. R. Civ. P. 41(b) (providing that an action may be dismissed "for failure of the plaintiff ... to comply with ... any order of court").

DONE, this the 1st day of June, 2006.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE